

Application No.: 09/681682
Docket No.: SS3161USNA

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REMARKS

Claims 1, 3-5 and 8-10 remain pending in the present application.

Rejections under 35 U.S.C. §§102(e)/103(a) over Allen

Claims 1, 3, 5, 8 and 10 stand rejected under 35 U.S.C. §102(e) as anticipated by, and claims 4 and 9 rejected under §103(a) as obvious over Allen (U.S. Publication no. 2002/0125601 A1). Applicants traverse these bases for rejection and respectfully request reconsideration and withdrawal thereof.

Applicants reiterate their comments in traverse of Allen, presented in their previously-filed response.

As recommended by the Examiner in the Final Office Action (paragraph 5, page 4), Applicants submit herewith the declaration under 37 C.F.R. 1.131 of Edgar N. Rudisill, Vishal Bansal and Michael C. Davis, inventors of both the present application and of U.S. Serial no. 60/223,040 (the '040 provisional), filed 4 August 2000 (now U.S. Serial no. 09/915,688), in which they disclose melt blowing dies useful according to the present application. In the declaration, the named inventors declare that they were in possession of the subject matter of the '040 provisional on or before its filing date of 4 August 2000, which predates the filing date of the Allen application.

Applicants submit that the '040 provisional, in combination with JP2-289107 (JP '107) (publication date 29 November 1990), which clearly discloses a dual coathanger meltblowing apparatus (Figs. 1-3), essentially as disclosed by Allen, having a unitary die tip configured for pre-coalescence meltblowing, collectively indicate that Applicants were in possession of the Allen invention prior to the filing date of the Allen application.

Withdrawal of Allen as a reference under 35 U.S.C. §§102(e) and 103(a) is requested.

Rejection under 35 U.S.C. §103(a) over Groten et al.
in view of Buehning

Claims 1, 3-5 and 8-10 stand rejected under 35 U.S.C. §103(a) as obvious over Groten et al. in view of Buehning. Applicants traverse this basis for rejection and respectfully request reconsideration and withdrawal thereof.

The disclosures of Groten et al. and Buehning have been discussed at length in Applicants' previous responses.

In paragraph 5 of the Final Office Action, the Examiner further explains her position as to the combination of Groten et al. and Buehning. Applicants thank the Examiner for the clarification. The Examiner states the reasoning for the rejection is:

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that it would have been obvious to one in the art how to make the apparatus of Buehning extrude the fibers of Groten et al. by simply including a second set of filter/coat-hanger die assemblies.
(Paragraph 5, page 4).

It appears that the Examiner's proposal is tantamount to what is disclosed in JP 2-289107 (JP '107), already of record in the present application (translation provided), which is a multiple component melt blowing apparatus incorporating two coat hanger manifolds (Figs. 2 and 3, pages 9 and 10 of the translation). However, JP '107 discloses a pre-coalescent die tip 23, unlike the presently claimed apparatus/process.

Applicants respectfully submit that the Examiner's proposed modification of Buehning, a melt blowing process/apparatus, to produce post-coalescent multi-component filaments in view of the Groten et al. disclosure, is merely an impermissible hindsight reconstruction of the present invention, derived from a reading of the present specification.

Buehning provides no basis whatsoever for making multiple-component filaments; and while Groten et al. do suggest making multiple-component filaments, the Examiner's attention is directed to the fact that the Groten et al. process is distinctly a spunbonding process. Examples 1 and 2 of Groten et al. disclose making filaments of 1.2 dTex and 1.5 dTex respectively (paragraphs 0043 and 0053), about five times greater in diameter than the desired products disclosed by Buehning (2 microns; col. 1, lines 22-25). Additionally, the Groten et al. process includes "spinning/stretching" (paragraph 0053), a step distinctly related to spunbonding and entirely immaterial to melt blowing. Groten et al. provides no motivation for using their spinning dies for melt blowing, specifying a variety of alternative spinning processes which do not include melt blowing (paragraph 0058).

Since the references are directed to non-analogous processes, i.e. Buehning to melt blowing and Groten et al. to spunbonding, the skilled artisan would have no reason to look to Groten et al. for motivation to modify Buehning. The only motivation to combine these references comes not from the prior art, but from the present specification. Accordingly, the Examiner's reasoning is flawed.

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The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on the applicant's disclosure. MPEP § 2142, citing In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

No *prima facie* case of obviousness can be said to exist.

Likewise, since the references are directed to non-analogous processes, the references are improperly combined and as such, cannot present an adequate *prima facie* case for obviousness.

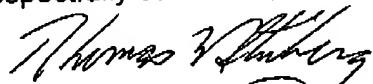
Finally, even if, *arguendo*, it might have been obvious to look to Groten et al. for modifications to Buehning, one of skill in the art could not have had an expectation of success in modifying a melt blowing process (Buehning) with dies designed for a spunbonding process (Groten et al.). More particularly, the skilled artisan could not have had a reasonable expectation of success in obtaining multi-component meltblown fibers by post-coalescence of separately extruded meltblown fibers, merely because such a process might be successful in a spunbonding process. Vaeck, *Id.*

Of course, the same criticism can be directed at a proposed combination of Groten et al. with JP '107, which like Buehning, is distinctly a melt blowing process, unlike Groten et al.

Withdrawal of the rejection for failure to establish a *prima facie* case of obviousness is requested.

In view of the foregoing, allowance of the above-referenced application is respectfully requested.

Respectfully submitted,



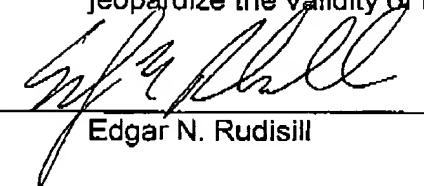
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Dated: 1/7/04
TWS:fgl
Enclosures

DECLARATION UNDER 37 C.F.R. 1.131

We, Edgar N. Rudisill, Vishal Bansal and Michael C. Davis, do hereby declare as follows:

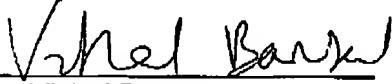
1. We are all co-inventors of the present U.S. Patent Application no. 09/681,682, as well as U.S. Provisional Patent Application no. 60/223,040, filed August 4, 2000 (corresponding to U.S. Patent Application no. 09/915,688, filed July 26, 2001, now pending).
2. We are aware of the Examiner's rejection of present claims 1, 3, 5, 8 and 10 as anticipated by, and present claims 4 and 9 as obvious over Alien (U.S. Published Patent Application no. 2002/0125601 A1).
3. We hereby declare that we were collectively in possession of the entirety of the subject matter disclosed in U.S. Provisional Patent Application no. 60/223,040, on or before the filing date of August 4, 2000 of that provisional application, and believe that we are the first inventors of the subject matter disclosed therein, relating to post-coalescent melt blowing of multi-component melt blown fibers using separately controlled multiple extruders to feed a post-coalescence unitary melt blowing beam die.
4. We further declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.



Edgar N. Rudisill

12/18/03

date


Vishal Bansal

12/18/03

date


Michael C. Davis

12/18/03

date